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DISTRICT OF COLUMBIA

STATEHOOD CONSITITUTIONAL CONVENTION

JUDICIARY COMMITTEE PUBLIC HEARING

Monday, April 12, 1982
4:54 o'clock p.m.

Auditorium
Ninth Floor
PEPCO Building
10th and E Streets, N.W.
Washington, D.C.

Present:

Delegate William Blount, Chairperson
Delegate David Clarke
Delegate Jan Eichhorn
Delegate Janette Harris
Delegate Brian Moore
Delegate Gwendolyn Paramore

C O N T E N T S

WITNESSES	PAGE
Delegate Gwendolyn Paramore.....	3
Delegate Philip Schrag (in absentia).....	12
Douglas S. McNish, Esq. (in absentia).....	14
Ms. Barbara Baker.....	18
Delegate Barbara Lett-Simmons.....	29
President Charles Cassell.....	40
Delegate Courts Oulahan (in absentia).....	52
Adjournment.....	57

P R O C E E D I N G S

CHAIRPERSON BLOUNT: The public hearing will come to order. We have present with us members of the Judiciary Committee: Delegate Brian Moore, Delegate Janette Harris, Delegate William Blount, Delegate Gwendolyn Paramore, Delegate Dave Clarke. We are very pleased to have our public hearing today, April 12, 1982, beginning at 4:54.

Delegate Gwendolyn Paramore will lead off our speakers, and there are a few other changes or additions to the witness list. On behalf of Delegate Philip Schrag, Delegate Clarke will read into the record a letter that he sent to us. And Delegate Brian Moore will play a tape and discuss the judiciary from the aspect of a visit he made today at Lorton. We're also going to have at the end, if there are any citizens who come in and would like to speak, we will certainly welcome their comments.

So, we will begin with Delegate Gwendolyn Paramore.

TESTIMONY OF DELEGATE GWENDOLYN PARAMORE

DELEGATE PARAMORE: I believe for the sake of fairness and equity that judges should be definitely elected at the levels of the lower court system. In support, traffic courts, rental courts, and trial by jury courts where the judge has a great amount of influence or makes the

ultimate decision. I feel that this person should know the law and address the law, but he must be cognizant and aware of the constituency that he serves. He should not be responsible to money or power. The ability to bribe or get the most influential lawyer should not deter the judge from making a fair decision. Many times I have seen innocent men and women go to prison just because they could not afford a good expensive lawyer. I've seen people serve in the place of others who were guilty, and I've seen persons belittled and shamed because they couldn't even answer properly in their own defense because a smart lawyer knew how to twist their words and throw them off guard.

In summary, any elected official is and should be responsible to the people. And any person with a vote can have the chance to lobby and organize to see that justice is equitable.

That's all I have to say.

CHAIRPERSON BLOUNT: Thank you, Delegate Paramore.

Are there questions for Delegate Paramore?

DELEGATE CLARKE: Delegate Paramore, my understanding, my examination of the situation reflects that when judges are appointed, they are more independent. And where the conduct that they have to examine is not consistent with

common mores, they are more just. I don't mean to be so conclusory in my terms. But, for instance, you indicated the innocent persons going to prison. This community has right now or through the past few months gone through a very intensive time with respect to its fear about crime. We have something on the ballot now about mandatory sentencing, and the city will decide that. But there's a lot of talk about "Got to get touch, got to get tough, got to get tough." If a judge were having to run in this kind of election year, he may well have to present to the electorate the amount of time that he was providing.

For instance, one of my difficulties as a city councilman has been I've not been willing to make mandatory sentences. And some of my colleagues are saying I'm too light, too lenient. "Get rid of him. I'm better than him." What I call the numbers game: whoever can come up with the higher number is therefore the tougher one.

Don't you see this as being a problem if your concern is that innocent people might go to jail, that indeed elected judges might be stronger and tougher than appointed ones?

DELEGATE PARAMORE: Indeed. Anyone else want to address that?

I'm just saying that I have found--and there has to be more fairness in the judicial system as far as the poor person is concerned. It is not equitable. And I have seen innocent--well, innocent, but I've seen poor people who have not been represented properly. They get a court-appointed lawyer who really doesn't care, as opposed to being able to afford a lawyer that just can really do the job. And I have known people who have had these good lawyers--and even they have committed crimes--but they were able to get out of it. And you know yourself, you have had people who have committed a crime, found innocent, back on the street, and commits the same crime again. We've had people to come out and do the same crime again. And I even believe that in the case of the fellow in Atlanta they had him, they held him, he did a lot of talking because I think he's kind of crazy, and he asked to be caught. So, he did all this talking. They let him go and then they found another body, and then they brought him in; and the crime has stopped there. But he was let out again to do the same thing again because you have psychopathic people. But if those persons are rich enough and able to pay a good lawyer, they'll get off.

And also along those lines--and you know, Delegate Clarke and all of us know--there are instances where there

have been judges who have been bribed and it has been lately that it has come out. Some people will yield to money, some people will yield to power, and some people, if you have both, they will yield to that. And there is that element. I know it's kind of up and down on both sides. But I would like to see the element of the money thing and bribery, and I would like to see the judges more responsible to the poor person or to the person who cannot afford a lawyer.

DELEGATE HARRIS: Delegate Harris from Ward 4. Delegate Paramore, I understand your concern. I'm not sure in my own mind that an elected judge will solve the problem with which you speak. I'm concerned about elected judges, and we've heard it discussed at our meetings; we've heard it discussed by other people. But we know in D.C. what elections mean. We know how much time will be expended with elections. And we also know that according to the year in which the judge would be elected, as Delegate Clarke mentioned, the issues con somewhat change the whole attitude and previous thought or even morality of the judge because at that point we're only concerned with elections. And I have concern about that, and I have not decided in my own mind that judges ought to be elected. But I am concerned with the way in which the judiciary nominating committee is constructed.

I think people or residents should have more of a part to play in that development.

Back to your issue about citizens not getting a fair trial, good judges--and I taught at Lorton for two years, so I know what you mean--in terms of innocent people not having the same kind of legal representation, it seems to me that we may need to think of how we can better serve people of that lower economic status or people who fall into that category of good representation. I don't think elected judges will solve it. I think the process by which they have to come through and how they are--how lawyers are designated to them might solve that. We might want to look at how are judges or lawyers appointed for those persons and devise some other way that it is more equitably done, than the way that it's done. And maybe that might solve that. As I said, I'm not sure that elected judges would solve that. And that's my problem, is how much time will that person who's running for office be caught up into elections and be to the will of those in power.

I agree with Delegate Clarke that our judges are independent because they are appointed. And I think they serve the people well from that perspective. I think it would change drastically if we had election of judges.

DELEGATE PARAMORE: But I was just saying as far as the poor man is concerned, the only thing he has is a vote. And there's power in the vote. And that vote needs to be recognized for the little man. That's his only weapon. He doesn't have any money. So, I hope that the committee would take all those points into consideration and think about the person who does not have the money to pay for these things.

CHAIRPERSON BLOUNT: We certainly appreciate your testimony, Delegate Paramour.

Any further questions?

DELEGATE HARRIS: On the point that you just made--I need it for clarification--that the poor man has a vote and that is his only weapon, how would he use that in terms of election of judges? I don't understand.

DELEGATE PARAMORE: In other words, it would give him a chance to organize others that's poor like he that also has a vote and also has the same concerns as far as the unjustness of the judiciary. Say, for instance, even in traffic court, you have 20 or 30 people. I've been there. And these tickets--you know, people have to come in and pay those tickets. In other words, I've seen people--a lady around the corner hollering about somebody stealing her purse,

and the policeman is over here giving a ticket and he's going to write that ticket before he goes around there to see what's happening to her, whether she's getting raped or robbed, you see. They're so concerned with writing tickets. So, the poor man has to pay these tickets. And I've been in traffic court and have seen that the judges say, "Well, pay it. Good bye." They didn't even allow the persons to have a chance to speak, to speak to the fact that they weren't even driving their car, their niece or nephew had the car, and they wouldn't even listen to it--just, you know, go, just a lot of--at that level.

DELEGATE HARRIS: Then that represents maybe a flaw in the system, not so much on the judges' part in the department of transportation or how that system is set up, by a mayor or by a city council or those who are in charge, I think.

DELEGATE PARAMORE: And then when they get to him, he just...

CHAIRPERSON BLOUNT: I think the point is well taken by Delegate Paramore. The fact is she's saying that there has to be some way to rein these judges in who are abusing their power and authority.

DELEGATE PARAMORE: Right.

DELEGATE MOORE: Delegate Paramore, I'm curious about your desire to have the lower court judges be subject to election, but apparently you don't feel that the supreme court judges should be appointed--or, excuse me, subject to election. Is that correct?

DELEGATE PARAMORE: I don't have any problems with it. They could be or could not be. I don't have any problems with the higher courts having the--because I like the way the supreme court is. I have a lot of confidence in the supreme court. I don't have any problems with that. But because usually you don't get--I don't know, the poor man--poor people are going to get caught up in robbing or stealing, kind of petty larceny, small things at the lower levels. They don't usually--just like Harris. Do you remember Miss Harris, the school marm?

DELEGATE HARRIS: Jean Harris.

DELEGATE PARAMORE: Jean Harris. Well, you know, they're not going to get involved in such a big case like that. And that's why I don't have any problems with the higher judges being appointed. But I do have problems at the level where you find most of your lower income persons being involved in certain things that happen at that level. I would like to see those judges more responsive at that

level to those people.

CHAIRPERSON BLOUNT: Thank you very much.

DELEGATE PARAMORE: Thank you.

CHAIRPERSON BLOUNT: The next speaker will be Delegate Clarke. He is going to read into the record a letter that was sent to this committee by one of our colleagues, Delegate Philip Schrag.

DELEGATE CLARKE: [Reading] Honorable William Blount, D.C. Statehood Constitutional Convention, 929 E Street, Northwest, Washington, D.C. Dear Delegate Blount-- I'd like to indicate for the record, Mr. Chairman, that I've been asked to read this. This may or may not reflect my views.

[Reading continuing] I understand that the convention's judiciary committee, which you chair, is currently considering the question of whether the judicial system of the new state should have two or three tiers. I favor a two-tier system for two reasons. First, I spent several years in New York, which has three tiers, representing poor people in courts. It was my experience that the extra middle layer tended to favor the wealthy, including large corporations. The possibility that they might have to take their cases through as many as three different courts, each with

its own costs in lawyers' fees, tended to discourage the poor from taking full advantage of the judicial system and encouraged poor people to accept settlements lower than they might have gotten in a simpler and therefore less costly system. In addition, I found that the middle level courts were extremely unreceptive to law reform efforts. They tended to take the position that making the law more progressive was the responsibility only of the highest level court. As a result, the poor person had little chance of winning a case involveing novel issues unless he or she was prepared to litigate all the way up to the highest court. I remember vividly a day on which I served a notice of appeal to the middle level court on a lawyer for a corporation that my low-income client was suing. "This is all so silly," he confided in me, "whichever one of us loses is going to appeal the case to the next level anyway. I wish we could just skip this step and save both our clients some money." But we couldn't because New York has an inflexible three-tier system. Second, adopting a three-tier system now is a drastic irreversible step. If the convention accepts the continuation of the current two-tier system and it later appears that because of the work load on the judges a three-tier system is needed, we can always amend the constitution to do so. But,

as a practical matter, if we start with a three-tier system, it would be very difficult to move back to a two-tier system because such a move would involve eliminating the positions of a number of sitting judges, law clerks, and other court personnel. Thank you for considering my views. And the letter is signed by Philip G. Schrag.

CHAIRPERSON BLOUNT: Thank you, Delegate Clarke.

As you can see, this letter is basically supporting the two-tier system, from Delegate Philip Schrag. And it's interesting, especially the part about he has represented a lot of indigent people in New York.

We are very pleased to have Delegate Mildred Lockridge here with us and also Barbara Baker, our research assistant, which gives us a little bit of an audience.

At this point we are going to ask Delegate Brian Moore to read into the record a letter that he has.

DELEGATE B. MOORE: This is a letter from Douglas S. McNish, attorney at law, in Kahului, Maui, Hawaii. He's also a personal friend, but he participated in a constitutional convention in 1978 in the State of Hawaii. It's one I believe they have every ten years or so. This was written on March 8, 1982, and it reads as follows:

"Dear Brian: I hope you will excuse my formal

approach to letter-writing, but if I don't dictate this letter off to you, the Constitutional Convention may be over before I get a chance for any input.

"In 1978, Hawaii went through a constitutional convention which is mandated by the Hawaii constitution. The mandate specifies that each ten years, a vote shall be taken as to whether or not a constitutional convention is called. If the vote is positive, delegates are elected. At that time, the bar association carefully studied some aspects of our judicial branch. While I was not involved in any of the committee work, I was somewhat involved in the state bar association executive committee at that time, and had some access to the thinking behind proposed changes.

"I am enclosing a June 8, 1978 report by the state bar association. I have made a few notes on the margins. Generally I have come to believe that the judicial branch should be isolated from partisan politics to the greatest extent possible. The executive and legislative branches are policy-setting institutions, and by their very nature are steeped in politics. Because our system of government has from its inception been a system which sets public policy by consensus and compromise, the political nature of executive and legislative branches is appropriate.

"The judicial branch is not intended to be a policy-maker. It is the branch for decisive resolution of conflict. The matters brought to the court are those which compromise and consensus have failed to resolve. Ideally, the court should resolve the conflict based upon the policy established by the executive and legislative branches of government, and in an ever-lessening degree, the policies established by the courts over thousands of years. This court policy is usually referred to as common law. If politics creeps in to the consideration of the resolution of a conflict, then to that extent we have ceased to be governed by a system of written laws, and established policy.

"The most difficult consideration is how to remove judicial appointments from the realm of partisan politics. The obvious answer is that it is impossible. The goal, then, is to reduce the partisan nature of the appointments as much as possible. The election of judges by popular vote is probably the worst system, in my opinion. It guarantees political judges. Even if they are required to run without party affiliation, they typically have a strong party affiliation, that often becomes evident in their decision-making. Appointment by an elected official such as a governor often seems to give an interesting mix of judges; some very

good judges come from such a system; also some very very bad ones result. Whether it is any better than a pure election is questionable.

"The recent trend has been toward having some form of judicial commission play a role in selection of judges. I believe that 30 states have adopted some form of commission selection method. If my recollection is correct, none of the states which have adopted a form of commission selection has gone back to other forms of selecting judges.

"If the judicial commission does not make final appointments, but merely prepares the list for appointment by an elected official such as the proposed Hawaii system, you should be careful of several things. First, keep the number on the list small. A long list means lesser and lesser qualified people are on the list, and is more likely to include the partisan persons who the political appointing person would choose if given the opportunity. Another thing to be careful of is exclusion of lawyers from the judicial selection commission. By and large, the lawyers are in the best position to know who among them is qualified and who would be an impartial judge. Also, lawyers have an intense interest in having impartial, competent judges on the bench. Few of us go to court expecting to lose cases. Those

we settle. When we do lose cases in court, we often feel it is because the judge did not understand the memorandums and law presented to him, or that he was somehow biased by political influence." End of letter.

CHAIRPERSON BLOUNT: I guess it is not fair to question on a letter that is read coming from another person.

DELEGATE HARRIS: Will we get copies of that letter? Can we have copies of that letter?

DELEGATE B. MOORE: Yes. Barbara made copies, didn't you, of the letter?

MS. BAKER: Yes.

DELEGATE B. MOORE: Could you distribute them to the...

MS. BAKER: I will redistribute the letters, yes.

CHAIRPERSON BLOUNT: Thank you. She will redistribute the letters in our boxes. Barbara Baker would also like to testify as a citizen today, and of course we welcome her testimony.

TESTIMONY OF MS. BARBARA BAKER

MS. BAKER: My name is Barbara Baker, and I'm here to testify as a citizen. And I'm concerned about the financing of the court system if the District of Columbia became the State of Columbia or whatever name they would name

it. In a lot of states where the court system is under the jurisdiction of the state, there is a form of economic enterprise within that state or through certain forms of revenues that the state can draw on to finance their state court systems. Washington is very limited in economic growth in the sense of importing or exporting goods, factories, and the like. So, one of the issues that I would like for the judiciary to take into consideration and that is to see if there is some type of mechanism that would allow the court system to be financed under the congressional budget even though it would be geared toward statehood. And the reason why I'm asking that this consideration be taken is because I don't believe that the people, once the enclaves were separated from the population of the people and you had a small population to deal with, that they would be able to finance a court system on their own due to a lack of economic enterprise or even revenues here within a state to finance it.

And then the second thing is that I'm against the three-tier system because I don't think that a three-tier system really allows an expedient delivery in law. I think that the administrative process gets bogged down in the passing on of paperwork which tends to lean toward long and

drawn-out trials and expedient response to the people, to the defendant and to the plaintiff. So that I think that a two-tier system is more applicable because of the ease of administration that does come in. It would decrease the time that a three-tier system wouldn't make way for.

Also I'm not in favor of elected judges. I believe that if the poor man doesn't get a chance to a speedy and fair trial, that that breach happened way down the road before it got to the judge--the decision-making process through the judges. I think that whatever petitions were submitted--in the process of litigation perhaps that's where the breach is, not so much by the time it gets to the judge because I think that most of the time the judges do rule on what they have before them to rule on. I wouldn't want to see the court system really embrace elected judges based upon emotion. I think that that is an emotional response when people say, "Well, we have elected judges. Poor people won't go to jail." And I don't think that's necessarily so.

Second of all, I'm against elected judges because I think that it takes away a commitment that judges would normally make. In the judicial process there is a form of commitment that judges make that's separate from political pressure. And I think that if judges were elected, the

tyranny of political aura would just really infiltrate the whole judicial philosophies. So, I'm against elected judges.

Resident requirements. I think that judges that are under the Superior Court of the District of Columbia should live within Washington, D.C.

And I think there should be a reception clause where people who are receiving certain constitutional laws or a trial at the jury level should continue on whatever level it was at before. I'm in favor of continuing the jury trial even though they say it's expensive and cumbersome. I believe a jury trial should still remain because it's a part of the court system that still gives the people to come in and say we find this to be the case or that to be the case, and it gives the citizen input where he doesn't feel he has a court system with judges just pounding out regulation.

I also think that an appointed judiciary provides a check and balance system on elective officials and that that remain.

The numbers of years that a judge should remain in judgship I think is a question. I think that if you have a term of 15 years it gives you an idea of the judge's philosophy toward his decisions and what he makes, and you

can therefore see that judge's demonstration and the amount of years such as 15 years. I don't think it should be any less than ten if it's changed at all.

That's my testimony.

CHAIRPERSON BLOUNT: Thank you very much. We'll as you to hold on for comments and questions.

DELEGATE HARRIS: That was a very good, thorough testimony, Ms. Baker. I do want to go back and ask you a question about the financing of the court system. I think you mentioned that you would like to see it under the congressional budget.

MS. BAKER: Continually, yes.

DELEGATE HARRIS: In your research, how many states have you found that their court system is financed in that way? Are there any?

MS. BAKER: I haven't done any research as to what states are under the congressional budgets or not because my whole idea, since they are states, that there is a different allocation from federal monies to them than what the District of Columbia is.

DELEGATE HARRIS: I guess I asked you that because I'm wondering, how can we justify it if we're setting up a state and setting up autonomy within that state? How can we

justify our court system being financed in that way? I gather you suggested that because of the expense incurred, tremendous expense.

MS. BAKER: Right. I suggested that one reason because of fear. I don't believe that the State of Columbia, whatever the name it should become named, would be ready for a transition to finance a court system. I just think that it would be too young. And I don't believe that the climate here has any true sense of revenue to say that it can help in financing the court system when the District becomes a state. So, one reason I have suggested it is because I didn't think the citizens could balance it in the new phase.

DELEGATE HARRIS: When you say finance the court system, then how much expenditure are you envisioning other than what we have now? Do you understand?

MS. BAKER: I understand what you're saying.

DELEGATE HARRIS: I'm saying that if we have 40 people now that constitutes our entire court system, superior and appeals, then what are we saying that if it increases to 80, that's too much; or if it increases to 60, we can still handle it?

MS. BAKER: I wasn't thinking so much in the sense of just personnel. I don't know.

DELEGATE HARRIS: No, I'm not talking about personnel. I'm talking about judges, legislators.

MS. BAKER: I haven't done a breakout in the sense of a compare-contrast analysis from other states as to what this district could contain, nor have I thought about the financial costs under a two-tier versus three-tier system that would bring in other costs for financing. But I will do in the future and respond from that way.

DELEGATE HARRIS: I can see three-tier being quite expensive. Two-tier could be pretty much what we have now with a few added people, which might not make it too expensive, over and above what we do now.

MS. BAKER: If the judiciary committee decides to advocate for a three-tier system, then you would be bringing in an intermediate court. That would bring in other extended finances.

DELEGATE HARRIS: That would, if that's the route here. Thank you.

CHAIRPERSON BLOUNT: Any other comments?

Thank you very much. At this point I would like to make a few announcements to the committee members. As you know, the schedule that was presented to us Saturday is to start work on the actual article before the full convention,

beginning the 26th of April. This only gives us two meetings actually to draft our article, which would be Monday and Wednesday. So, I'm asking you if you can begin now to provide some time so that we can start at 7:00 o'clock and stay until 10:30, I'm hoping.

DELEGATE HARRIS: When is our next hearing date?

CHAIRPERSON BLOUNT: I'm not talking about the hearing.

DELEGATE HARRIS: I know, but when is our next hearing?

CHAIRPERSON BLOUNT: Our next hearing is Wednesday.

DELEGATE HARRIS: So, you're saying we should meet after that?

CHAIRPERSON BLOUNT: No, no. I'm saying--

DELEGATE HARRIS: Next week.

CHAIRPERSON BLOUNT: Yes, next week we should try to be prepared to stay kind of late because we're going to have to draft our article. And to that end, I took one of Courts Oulahan's proposals and put it in the form of a formal proposal and presented that proposal Saturday. So, in other words--

DELEGATE HARRIS: When is that?

CHAIRPERSON BLOUNT: To the full convention

Saturday. So, what will happen will be that--

DELEGATE HARRIS: You mean this past Saturday?

CHAIRPERSON BLOUNT: Yes, this past Saturday. So, this proposal will be referred as the rules say to our committee. And this can be used, as I see it, an article to amend, to change, to have something so that we can start in case we don't have the reports from the different sub-committee chairmen and this type of thing. So, I'm going to read this into the record after we hear from Delegate Simmons. But you wanted to make a comment now?

DELEGATE HARRIS: Yes. Number one is I have a copy, and all of us do, of Courts Oulahan's paste-up.

CHAIRPERSON BLOUNT: Yes.

DELEGATE HARRIS: And my thought is that the parts that the committees need--we all have assignments, right? So, the parts that we need to work on in terms of our assignments, if we deem this important, we have begun to pull those out, all of us, and the letters and all the speeches. My confusion now is, Did the committee discuss this before it was brought to the plenary session? I have not seen it. May I see a copy?

CHAIRPERSON BLOUNT: You can see this, and I am glad to respond that the rules say a delegate may make a

proposal. And that's what I did. But you're welcome to look at this.

DELEGATE HARRIS: A proposal to the--

CHAIRPERSON BLOUNT: The proposal will be referred to the committee, and the committee will discuss and act on the proposal.

DELEGATE HARRIS: Okay, I understand that a delegate can make a proposal to the convention.

CHAIRPERSON BLOUNT: No, to the committee.

DELEGATE HARRIS: Wait a minute. But you presented this to the convention Saturday.

CHAIRPERSON BLOUNT: See, the rules say that any delegate may make a proposal, right?

DELEGATE HARRIS: Right.

CHAIRPERSON BLOUNT: And the procedure is that the proposal has to be numbered and so forth like it is here and presented to the president. And the president refers it to the committee. It just so happens that I presented mine that particular Saturday.

DELEGATE HARRIS: On the floor.

CHAIRPERSON BLOUNT: Yes. It was not presented to the full convention as such. It's just referred to our committee. And I was saying that the reason I did that was

because we have no draft article to respond to. And I just took it upon myself as a right to do this, and you're welcome to read this. But this would actually be Courts' proposal.

DELEGATE HARRIS: Yes, okay. I want to respond, and the reason I want to respond to that is since all of us have been duly assigned certain sections to deal with in drafting for the judiciary committee, it appears to me that any proposal presented by this committee preempts what each one of us will be doing in terms of our own research and drafting. For instance, if that report is presented, it would overlap my report on court structure, report of Delegate Paramore on the selection of judges. And it seems to me that if it's a suggestion of a member of this committee, then it ought to be presented to the person who has that particular assignment and that person considers that in the drafting of that article for that assignment. And it comes back to the floor. And I think that is what we need to do if we're working together on the committee. But certainly shouldn't go to the convention first at all if we have a committee.

CHAIRPERSON BLOUNT: Delegate Harris, I respect your opinion, and we're not going to debate at this point

because we do have Delegate Simmons who would like to testify. But I will say this: I exercised my right as a delegate, and that's all there is to it. You can still present your report and amend anything up here. You can change it all the way around. But I exercised my right as a delegate.

DELEGATE HARRIS: Do we get copies of that?

CHAIRPERSON BLOUNT: Yes.

Could we hear from Delegate Simmons?

TESTIMONY OF DELEGATE BARBARA LETT-SIMMONS

DELEGATE SIMMONS: Thank you very much, Mr. Chairman. I really come first to demonstrate my respect for your calling this hearing and allowing persons to share with you what they think, feel, and believe with regard to this very significant section of the constitution which your committee is drafting. What I am interested in simply suggesting--and I feel quite confident that the composition of your committee will more than adequately cover this aspect. But I would like to add my voice to that: that judges for the District of Columbia as a state, whatever our name shall be, minimally have two tiers where there is one body elected and a body appointed. And I believe that it is at the local or the superior court level that I would like to see the election

occur and at the appellate court level where I would like to see appointment. Whether or not your committee plans to have three tiers and have a state supreme court, as is the case in many states, I have no objection to that final tier also being elected as state supreme court justices.

I am interested at the level of qualifications for candidates for the court that there be a criteria stipulted and whether or not you want that in the form of a commission where the governor will select some portion of that body, the legislature select a portion of the body, and the judiciary a third portion, making sure that of--let's just hypothetically say if it should be a commission of nine, a judicial commission of nine, that minimally there be three licensed practicing qualified attorneys on that commission. I do not think it is necessary for the majority or for all of them to be attorneys. But I do think that that quotient is an important one to be there. And if the three branches were permitted to make a selection of three, I think we could get that balance and make sure that the best judicial temperament would be served in the selection of candidates at all three of those levels.

I am interested in the tenure of judges, whether elected or appointed, being not concurrent with the election

of the governor and the other major state officers. I think it's very important to have that overlap so that there does not get to be too great an identification with the candidates at an administrative level and with the judiciary.

I think that the committee has an important arm of the constitution to deal with, and I do have confidence that it has representation of all the people on that committee. So, I've shared with you what my few humble thoughts are and would appreciate any serious and respectful consideration they receive in your deliberations.

CHAIRPERSON BLOUNT: Thank you very much. Are there questions of this witness?

DELEGATE CLARKE: Yes, I have a few questions. Delegate Simmons, you don't have to answer this if you don't want. But you know, for instance, that there's a mandatory sentencing initiative in the city today?

DELEGATE SIMMONS: I understand that there is one.

DELEGATE CLARKE: Have you taken a position on it yet?

DELEGATE SIMMONS: No, I really haven't. I really haven't.

DELEGATE CLARKE: We were discussing earlier-- Delegate Paramore presented a point of view similar to

yours about the election of judges. You have been an elected official for some time, as have I, and you've noted that the winds have changed over the course of the years that we've been elected. Are you not at all afraid that the election of judges will produce persons who will not give justice--I don't want to say to a minority because that's a loaded term in this town, but to minority points of view, not minority peoples. I think this town would produce judges that would respect minority peoples. But in terms of presenting minority points of view and respecting them when they would come before the court embodied in some case. Do you have any feelings about the capability of elected judges to deal with that kind of dynamic rather than appointed judges?

DELEGATE SIMMONS: Yes, I do, Delegate Clarke. As a matter of fact, I appreciate this question. I am attempting to build in the safeguard by having a judicial selection commission which will set up the criteria which qualifies one to even become a candidate. Whether you're going to write that into your constitution, I'm not sure. But I do know that if we set up a commission and if that commission is representative of--and that's why I'm insisting that persons of legal background, experience,

talent and practice be on there and that we mandate their presence on that commission, that they will bring that element that must obtain in terms of judicial temperament and, therefore, every Tom, Dick, and Harry really cannot be a candidate for a judge simply because they have finished law school. I would expect the commission to include those additional qualifications which go above and beyond one having successfully completed legal education and therefore being able to practice--pass the bar and practice--in the city. I was hoping that that would be the mechanism whereby we would get this assurance.

And then, too, we do have some legislation that already exists, and it certainly is my understanding that the world did not begin when, on March 1, we started writing this constitution. So, all of those laws which presently obtain in terms of respectfulness of individual rights and human rights, that is on the books. We've got one of the best in the nation. I wouldn't expect that to be tampered with as a result of our becoming a sovereign state. I would expect that to continue to obtain.

DELEGATE CLARKE: There's a lot of latitude within the letters of the law. I mean, that's why we have the judges. If we were able to legislate every situation,

then we wouldn't need a judiciary. The whole existence of the judiciary is to determine how the law applies in a given situation. And I think we've seen that there's a lot of latitude there. So, the law aside or the law behind us where the judges become applicable is in the other.

You mentioned a commission. It's your concept that the commission would only establish criteria, but they would not select candidates? They would not approve a range of candidates like a judicial nomination commission does for the executive?

DELEGATE SIMMONS: It is my hope--that's why I say it would be the body whereby the first--the criteria set up by that judicial selection commission I would hope would automatically eliminate anyone who should not serve. In other words, anyone who could get through their criteria to be a candidate for judge we ought to be safe with.

DELEGATE CLARKE: Unless you get right down to point of view, asking them how you would decide this case and how you would decide that case, I don't see how that judicial selection commission would do it. They could provide strict criteria. For instance, you have got to have practiced law five years or you've got to have practiced law ten years. You've got to, if you're going to be a trial

court judge, have handled at least x-number of trial court cases. Or if you are going to be an appellate court judge, have presented at least x-number of court cases to the court of appeals, et cetera. But I don't see how they're going to get to the concern that I have, which is the openness with which the--even the best of intended persons can have when they get there on the bench. There are some times when we need to have the elected official respond to the people. And in the legislature and executive I agree. And there are some times when we need to have the responding official feel that his service to the people can transcend the moment, and that's when we get to the judiciary, in my humble point of view. Thank you.

DELEGATE SIMMONS: Delegate Clarke, let me just be sure that I've made myself clear. By having what I've proposed as a minimally two tiers and having one elected and the other appointed, I think ought to free that judicial temperament at the next level. If folk feel that the judge at the superior court level, for whatever set of reasons, did not give them due process, then they do have recourse at a level where that person does not have to be nearly as responsive to because he's not elected. Then I have to answer a question by asking one. As an elected official

yourself, we are asking the general public to make decisions about our position. And they get it only through dialogue and probably even more limited interview than would be the case of those who would come before a judicial selection commission and we trust their judgment in the final analysis to by and large select people who will serve well the general welfare, the best interests of people. And they really--if I might be immodest enough to say--I think they have done very well in their judgment in the past. And if the general public can do that, I don't have any real concerns, that a body of nine over a given period of time, understanding the magnitude of the responsibility, ought to be able to do that equally as well. I don't think they are going to be very far off the mark. Human element is there and, sure, they may make a bad mistake. But I think it's not terribly probable.

CHAIRPERSON BLOUNT: Delegate Moore.

DELEGATE B. MOORE: Delegate Simmons, you mentioned that you would like to have one tier of judges selected or appointed by, I guess, the executive and one tier elected by the populace; is that correct?

DELEGATE SIMMONS: They wouldn't be appointed only by the executive. They finally would be appointed by the

executive.

DELEGATE B. MOORE: Oh, yes, after the commission recommends. Even though you mentioned a desire to see at least three licensed and practicing attorneys on that commission, sometimes I feel that the average layman is not really represented on the commission. It's usually a political appointee or somebody that's really involved in the partisan politics. And is there any mechanism that you might think of that could allow the populace to appoint or select or elect one or more individuals on that commission?

DELEGATE SIMMONS: Yes, Delegate Moore. Certainly I envision that if the executive, the governor, if the legislative, and if the judiciary each have opportunity to select three, I would hope that each of them would select at least one that meets that legal judicial requirement, okay?--which means that if they--the governor has got to be a political person, and I would expect that when he has two additional choices, that surely it ought to transcend just the party partisans, you know. I think by the very fact that we're giving them three choices, they ought to be able to accommodate three kinds of constituencies. And I consider a very significant constituency John Q. Public.

DELEGATE B. MOORE: Right, I hope so too. I agree.

Another thing: What do you think of the idea of having non-lawyers as judges?

DELEGATE SIMMONS: I've thought about that, but I haven't thought about it as much as I've read about it. They're called justices of the peace, and they are barbers, florists, and all those good things. And I think that they are people with good high moral-ethical code. But I think always in the course of human events, the kind of complexities that call upon more than one's personal history of experience with humankind. And that's why I think that to have some formal training and some precedent that one learns by virtue of being acquainted with the law gives the person a little edge and a little stronger position.

DELEGATE B. MOORE: And, lastly, is there any way to include in our constitution several ideas. I'm not sure it can be done. It may have to be put in the preamble or something with regard to rights. But so many times individuals are punished by our system more than corporations or even governments that violate the law. Can you think of any way that we can incorporate this idea into our constitution, that the application of justice be applied to corporations and governments as well as to individuals? Or is that something that would have to--is there another way

to say that? Or do you agree with it?

DELEGATE SIMMONS: I wanted to hear the rest of your sentence. I have no data that says any society or any culture anywhere at any point in time in our history has achieved rising above the pecking order syndrome or some elitism or some form of caste system. Try as we may, we haven't surmounted that yet and overcome it. I think that what we do is we continue to put in the elements that will more nearly program out the flagrancy and the blatantness of that kind of elitism and that disparity between due process, depending on who your father is, whether you fill out a long or a short form on April 15th. But I do believe that it is possible to move in that direction by the kinds of equations that we just earlier discussed. That just moves us toward it. Perfection or utopia? No, I don't expect it in my lifetime.

DELEGATE B. MOORE: Thank you.

CHAIRPERSON BLOUNT: Thanks again, Delegate Simmons. Are there further questions? If not, thanks again.

DELEGATE SIMMONS: Congratulations to you good folks, and I appreciate having the opportunity to share with you.

CHAIRPERSON BLOUNT: I'd like to acknowledge the

presence of President Charles Cassell. Do you have any comments?

PRESIDENT CASSELL: I'd like to testify, if I may.

CHAIRPERSON BLOUNT: Beautiful. Come on up.

And we'd also like to acknowledge the presence of a member of our committee, Delegate Jan Eichhorn, Ward 6.

TESTIMONY OF CONVENTION PRESIDENT CHARLES CASSELL

PRESIDENT CASSELL: Mr. Chairman, than you for the opportunity to testify before this committee. I've not been deeply involved in the deliberations of your committee, nor am I familiar with the proposals that you will be making if such are already ready. I know that in your wisdom you will make recommendations regarding proposals that have the appropriate consideration for the politics of this convention, the politics of the constitution itself.

I'd like to say something about the process for selecting judicial people. There are three tiers of government, and that is the executive, the legislative, and the judicial. Somehow or other we trust the public to make wise decisions regarding the legislature that represents us and decides on ways to order our procedures so that there is order and fairness. And we also trust our legislature to select their executive personnel. I see no reason why people

should not be trusted to make the selection of those persons who will interpret the laws that are passed by the legislature we elect. I understand the apprehensions that people have about people who are selected politically. There is no indication, as far as I can see, in those jurisdictions where people do elect their judges, that those people are any less competent nor any less capable nor any less fair nor any less honest than those who are appointed.

I point out to you that when an executive does make such appointments, the executive does not make them purely on the basis of competence and capability, integrity and fairness. An executive who makes a judicial appointment is always very much aware of the politics of his selection. And therefore he is not free to impart to that selection the kind of justice, the kind of wisdom, the kind of equality that we may assume.

So, I'd like to suggest that we take a chance. I say take a chance since I think the consensus is that it is risky to allow all persons who sit on the bench to be elected. I would suggest to you that there should be two levels in Washington, D.C. or whatever the new state is to be called. And those two levels are the first level, and that's what's called now the superior court and something

called the court of appeals. I see no reason why all of those individuals should not be elected.

I don't know what your research has determined, but I've heard nothing to indicate that elected justices at any level are any less capable or any less fair than those who are appointed by elected people.

CHAIRPERSON BLOUNT: Thank you very much.

Questions?

DELEGATE CLARKE: I sure came across an assessment when I was representing the Southern Christian Leadership Conference. The elected judges that were coming forth from the state systems were just an experience you had to go through to exhaust your state remedies before you could get to the appointed judges in the federal system with respect to it. Certainly I think also in terms of criminal rights, the rights of persons who are charged with crime, that when there's great periods of fear--and we've gone through a reasonable period of fear lately--I wouldn't say an hysterical period at all. But in a reasonable period of fear we find that judges have to answer to the public in terms of the length of the sentences they provide and that you find that defendants going before a judge who's up in this election year is not going to get the same sentence if he's going

before the judge who has gotten elected last year to a long term. So, you just indicated that you had no reason to think that elected judges would be any different. I just wanted to tell you from my experience some of the places where I think they have been.

PRESIDENT CASSELL: I haven't had the experience that you have as a practicing attorney. I would only say that the appointed federal judges in the region that you refer to are those people who have been sustaining the decisions by those elected judges lo these many years. And it was not until such time as there was other kinds of political activity generated from within those communities or perhaps on a nationwide that the federal judges who were appointed began to change their attitudes. And I would point out to you also that there were some federally appointed judges whose reputations and whose performance was so bad that even conservative congresses turned them down. I'm only indicating that the quality of the justice that you do get doesn't necessarily depend on the method in which they attain office, but it depends on the spirit and the mood and the requirements of the times.

DELEGATE CLARKE: I might agree with the latter part of what you just said about there being some federal

judges, but that's a problem I think we address through tenure and removal. In terms of appointment, we differ.

DELEGATE EICHHORN: President Cassell, when you were talking about the fact that we trust the electorate to select our legislators and the executive, although voters are influenced to some degree by personality, whether they believe a person has integrity, is honest, and so forth, they also vote for legislators and governors based upon a series of issues ranging from taxation to rent control. Do you believe that in making the selection of judges that voters would have an opportunity to vote for a candidate based on issues, how they rule on abortion, on sentencing criminals and so forth? Is that a comparison you were making, or how would you expect the electorate to distinguish between candidates?

PRESIDENT CASSELL: I would hope that the electorate would make the decision as they do now and not simply on the proclaimed position on issues, but on people's confidence that these are people who are not only capable but persons of integrity. We do know that when we select a legislator, positions on issues vary from time to time and from election to election. And people have to sort of read between the lines regarding the things that a candidate

says. I would expect that there will be a continuation of persons being selected essentially on the measure of the individual since I'm not sure that people pay that much attention to the stated positions on issues. And those issues vary so. Even the electorate themselves change their minds from moment to moment regarding issues. But they do gain confidence in an individual when an individual presents himself or herself for election; at a subsequent election I think that people are generally looking at the individual as one who is trusted, capable, a person with some degree of integrity, rather than the specific positions that individual has taken on issues.

DELEGATE EICHHORN: So, you believe then that the electorate should have an opportunity to vote for judges based upon their measure of the individual. And how would you address qualifications, if not issues?

PRESIDENT CASSELL: Well, I think that the--

DELEGATE EICHHORN: I mean, assuming that people of integrity and who are trustworthy are not necessarily good judges, what would be the deciding factor then?

PRESIDENT CASSELL: I would agree that there should be more qualifications, and that's perhaps where this particular position is unique. I don't think that a

legislator or an executive person need have any qualifications other than perhaps age and citizenship. I do believe that the administration of justice requires some experience in the law since a judge certainly must listen to interpetations being made by persons who profess to understand the law, and they must be able to make some ruling on that. I would think that there should be rather stringent restrictions or, let us say, qualifications regarding a person's legal background and legal training. What it is, I don't know. It may well be left to a commission as indicated by the former witness.

CHAIRPERSON BLOUNT: We certainly appreciate your comments. I would just like to say that I think the judges should be appointed. I just don't believe that it's dignified for a judge to have to run for election, to have to campaign, make speeches, and this type of thing, not to mention the fact that if our counting system doesn't improve, there may be a question as to who is elected, that sort of thing.

Are there further questions?

PRESIDENT CASSELL: May I respond to that, sir? There have been candidates for president of the United States who have comported themselves while campaigning in a

most dignified way, in a most impressive way--not very many, I would admit. But I would suggest that it is possible for a candidate to present himself or herself to the electorate in a dignified and impressive way that does not demean the office. Unfortunately that doesn't happen too often. I would expect that it might happen in the cases of justices if indeed these are people who are worthy of consideration.

DELEGATE HARRIS: Delegate Cassell, I just want to make one quick point, and that is that we've heard people testifying in hopes of having the lower court elected and the higher court appointed. This is the very first testimony I've heard in which all the court should be elected. I think a lot of time and energy will be expended. I think that in our city we know politicians--and it's very political--and people who are running for office do get caught up into the whims of those at power. And it seems to me that mechanically I think all the elected judges would be a grand mess. But I certainly understand and did listen very attentively to your deliberations.

PRESIDENT CASSELL: Your remarks really make me worry about how we select our presidents. Those presidents have to make appointments to the Supreme Court. And if indeed a person who has to involve himself in that kind of

intense, extended, drawn-out debate and perhaps presenting the issues in a way which favors himself or herself--if that kind of person has to make appointments to the Supreme Court and the process that he went through is not an appropriate process, then I'd worry about how we appoint our presidents. I have faith that if the President of the United States, if a governor of a state can make a wise and capable selection for a supreme court or a superior court or a court of appeals and the judges themselves--I said at the beginning of my testimony that I recognize that this is probably a very unique point of view and that some may see it as risky. But in light of the calibre and quality of many of the justices that we've had down through the years, it may be worth trying another means.

DELEGATE PARAMORE: Delegate Cassell, I have to say that I agree with you. You missed my address to the committee, but I am for the elected judges. I don't have any problems with them being elected, like you said, all the way. But I do definitely see that there is need for them to be elected in the lower courts as far as poor people and as far as people not having money to pay for the good lawyers and as far as people having to go to jail and they are innocent because they just couldn't afford the lawyer. And then I'm

talking about the level of bribing and using power to influence the decisions of judges. And we've seen already that there have been judges who have been bribed. As I said before, the vote is the only thing that the poor man has. And if he's able to use that vote as far as organizing and seeing that justice is done, I support your ideas. So, I'm one on the committee that does support the elected judges.

PRESIDENT CASSELL: Thank you. May I say in closing, Mr. Chairperson, that I'm really encouraged by this wisdom that comes from the last member there, but I want to say also that one of the things that a previous delegate mentioned and that was the--in fact, I think Delegate Moore raised the issue of the difficulty in getting the administration of equal justice. He wondered if there were some way of making corporations and other very, very influential entities as responsive to the law and subject to punishment as those of meager or no means. And Mrs. Simmons indicated that she hoped that there would be some means, some means of eliminating that elitism. The elitism is what is inevitable when an elected politician has the opportunity to appoint. The chances are, since those of us with little influence, those of us with low means in a society such as ours are assumed to be people not worthy of high office, that the kind

of people who could assume that position under elected process will never be appointed, never, not unless they as people of meager backgrounds have now achieved that kind of influence. And that kind of influence in our society is usually not achieved by the means that would make us attractive to the electorate.

Therefore, the electoral process may in part respond to your question. A judge has to be accountable to the electorate, and there's a good chance that he would be perhaps a little more stringent on the very, very powerful who find themselves at odds with the law. And we might find a different composition of the prisons unless we believe indeed that the poor are the people of low morals and perhaps unable to conform to the law. What we have now is prisons where 99-44/100 percent of the people are people of no means. We know, if we read the papers and if we follow the course of events, that certainly those people who run afoul of the law and are disrespectful of the law and steal from the government and steal from you and me perhaps in large amounts are not those who represent the majority of the population. That says something about our judicial system, and it may have something to do with the quality of the judges, and it may have something to do--albeit very elite

well trained persons, highly thought of--but it may have something to do with their capacity to mete out justice fairly. So, I think that Delegate Paramore's opinions, coupled with mine, are those that you should take very seriously.

CHAIRPERSON BLOUNT: Thank you very much.

We were afraid that we would not have many people to testify, but it turned out that we did have at least some comments entered into the record and we had some delegates to testify.

I did want to read into the record the proposal that I gave Saturday. And I would ask Delegate Moore to hold off till Wednesday when we probably would need to listen to that if we don't have very many people testifying. I also said earlier that because of the fact that the week of the 26th we'll begin the actual hearing of the articles before the full convention, we are only going to have two days to actually draft our article, which will be Monday and Wednesday of next week. So, I'm asking all committee members to please, if they can, to make arrangements to meet at 7:00 and stay until at least 10:30 because it's going to take a long time. Also to that end, I've exercised my right as a delegate to present a proposal. The proposal is really

Part B of Courts' option that he presented. And copies will be provided for all of the committee members. The reports of the subcommittee chairs will still be expected and can be made as a substitute of the whole subsection of the article or whatever. In other words, there should not be any reason why a subchairman's report cannot be reflected into the final article.

This is the proposal, Section 3.1, Judicial Power:

"The judicial power of the state shall be vested in a unified judicial system, which shall consist of a Supreme Court, a Superior Court, and such other Courts as the Legislature may provide by law. All such Courts shall be Courts of Record."

Section 3.2, Jurisdiction, Superior Court:

"The Superior Court shall have jurisdiction of any civil or other case or controversy (at law or in equity) brought in the State; any criminal proceeding under any statute of the State; and such other jurisdiction as the Legislature may provide by statute."

Section 3.3, Jurisdiction, Supreme Court:

"The Supreme Court of the State shall have jurisdiction of appeals from decisions of the Superior Court, to the extent provided by statute; to review orders and

decisions of the Governor and any agency of the Executive Branch, as provided by statute; and of such other matters as may be provided by statute."

Section 3.4, Composition, Superior Court:

"The Superior Court of the State shall consist of a Chief Judge and not less than forty-five nor more than fifty, Associate Judges."

Section 3.5, Composition, Supreme Court:

"The Supreme Court of the State shall consist of a Chief Justice and eight Associate Justices who shall sit enbanc and not by division or panel."

Section 3.6, Former District of Columbia Court of Appeals Judges:

"The Chief Judge and Associate Judges of the former Court of Appeals of the District of Columbia shall become the Chief Justice and Associate Justices of the Supreme Court of the State."

Section 3.7, Former District of Columbia Superior Court Judges:

"The Chief Judge and Associate Judges of the former Superior Court of the District of Columbia shall become the Chief Judge and Associate Judges of the Superior Court of the State."

Section 3.8, Retired Judges of the District of Columbia Court of Appeals:

"Retired senior Judges of the Court of Appeals of the District of Columbia may be designated as Retired Senior Judges of the Supreme Court of the State, and may sit, by designation of the Chief Justice, in lieu of any other active member of the Court."

Section 3.9, Expiration of Terms and Other Vacancies:

"Upon the expiration of the terms of each Chief Justice or Chief Judge, or Associate Justice or Associate Judge, of these Courts, vacancies shall be filed for each such position in accordance with the procedures set forth in Section 3.10 of this ARTICLE III."

Section 3.10, Nomination and Appointment of Judges:

"The Governor shall nominate, and with the advice and consent of the Legislature, shall appoint the Chief Justice and Associate Justices of the Supreme Court of the State, and the Chief Judge and Associate Judges of the Superior Court of the State. The Governor shall give at least 30 days' public written notice before sending a judicial nomination to the Legislature. No interim

judicial nominations may be made by the Governor."

Section 3.11, Tenure:

"Judges of the Superior Court and Supreme Court of the state shall serve terms of fifteen years."

DELEGATE HARRIS: Delegate Blount, since what you read is, I guess, a shortened version of a proposal that was submitted to the judiciary committee by Courts Oulahan, who indicated that his law clerks put all of that material together from various constitutions for us to look at in terms of our subcommittee, I think that the materials should be looked at in that way. And I think that each committee member should have a copy. It does not reflect the collective thinking of the committee. It reflects the collective thought of one of the delegates and not even--as he mentioned, I want the record to show that it does not reflect the collective thought of Delegate Oulahan, but research in which he thought this committee would certainly be able to benefit by it.

CHAIRPERSON BLOUNT: Thank you very much. As I said before, according to the rules, any delegate may present a proposal to the committee, and that's exactly what I did.

DELEGATE EICHHORN: Is this a proposal for working

purposes, or does this proposal reflect your views?

CHAIRPERSON BLOUNT: This proposal reflects my views, but of course I'm open to amendments.

DELEGATE EICHHORN: Good.

DELEGATE CLARKE: Are there copies, Bill?

CHAIRPERSON BLOUNT: Copies will be made available.

DELEGATE HARRIS: Could we ask our research assistant to have copies made for us before we leave here? It would serve us well.

CHAIRPERSON BLOUNT: That would be fine.

We have one other person scheduled at 6:30. I would like to know the thinking of the committee members as to how we should deal with this because I'm not for staying here a long length of time. Should we try to get the two persons who were scheduled today to testify Wednesday in one of our sessions and make comments?

DELEGATE CLARKE: What about the guy at 6:30? He's not here yet. Is he coming?

CHAIRPERSON BLOUNT: I don't know.

DELEGATE EICHHORN: It's not 6:30 yet.

DELEGATE CLARKE: We wouldn't want him to come and then not be here.

DELEGATE HARRIS: Why don't we break for a few minutes while she's preparing that? And then if he comes in here, then resume deliberations.

CHAIRPERSON BLOUNT: Okay. So, after 6:30 then, we will adjourn.

The committee will recess for a few minutes.

[The committee recessed at 6:16 p.m. and, in the absence of further witnesses, adjourned at 6:45 p.m.]

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